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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.        |
|--|-------------|----------------------|---------------------|-------------------------|
| 10/620,497   | 07/16/2003  | David L. Thompson    | P-8841.01           | 9062                    |
| 27581  | 7590        | 06/16/2005           | EXAMINER            |                         |
| <b>MEDTRONIC, INC.</b><br>710 MEDTRONIC PARKWAY NE<br>MS-LC340<br>MINNEAPOLIS, MN 55432-5604 |             |                      |                     | MULLEN, KRISTEN DROESCH |
| ART UNIT   |             | PAPER NUMBER         |                     |                         |
|  |             |                      |                     | 3762                    |

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                    |
|------------------------------|-----------------|--------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)       |
|                              | 10/620,497      | THOMPSON, DAVID L. |
| Examiner                     | Art Unit        |                    |
| Kristen Mullen               | 3762            |                    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 4/13/04 (IDS).  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 12-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 16 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 4/13/04.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The last line of claim 16 reads: ". . . for performing data modification information for performing data integrity confirmation. It is unclear what function is being recited. The examiner suggests deleting ". . . for performing data modification information . . .".

4. Claim 12 recites the limitations "the IMD interface device" in line 4; "the expert-data center" in line 6; and "the encrypted sensitive information" in the last line.

Claim 16 recites the limitation "the IMD interface device" in line 4.

Claim 17 recites the limitation "the key sources" in line 2; and "the IMD and IMD interface pair" in lines 2-3.

Claim 22 recites the limitation "the sensitive information, transmitted from the IMD and residing on the IMD interface device" in lines 6-7.

Claim 23 recites the limitation "said data to be transmitted" in lines 1-2.

Claim 24 recites the limitation "said data to be transmitted" in line 1.

There is insufficient antecedent basis for these limitations in the claims.

Art Unit: 3762

5. Claims 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: transmitting data from the IMD to the IMD interface.

***Interpretation***

6. The examiner has interpreted “data communication means” in line 9 of claim 12 and line 7 of claim 16, and “means to decrypt” in lines 11-12 as invoking 35 USC § 112 6<sup>th</sup> paragraph “means plus function”. In other words, “data communication means” is synonymous with --means for data communication-- and “means to decrypt” is synonymous with --means for decrypting--.

***Allowable Subject Matter***

7. Claims 12-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The prior art of record fails to teach or suggest a network communications system comprising at least one key source in data communication with the IMD interface device and with the information node; an encryption engine residing within an IMD interface device; data communication means between the IMD interface and the medical information exchange network; and a decryption engine residing within the information node having means for decrypting the data using the decryption key or a network communications system comprising at least one key source in data communication with the IMD interface device and with the information node, data communication means between the IMD interface and the medical information exchange network; an encryption engine residing within the information node having means for performing data modification of IMD instruction information; and a decryption

engine residing within an IMD interface device. The prior art of record also fails to teach or suggest a method comprising generating an encryption key for distribution to an IMD interface device, generating a decryption key for distribution to the information node; transmitting sensitive information from the IMD interface device to the remote information node; encrypting the sensitive information, transferring the encrypted sensitive information from the IMD interface device to the remote information node, and decrypting the encrypted sensitive information residing on the remote information node with the decryption key.

Snell et al. (6,424,867) shows an IMD having first and second telemetry circuits for communicating with an external programmer and an external monitor. The external devices are each assigned a different access code (i.e. key) by the access code generators corresponding to the first and second telemetry circuits located within the IMD.

Hethuin (5,458,122) shows a transmitter having a code generator for encoding EKG data and a receiver that receives the assigned code and decodes the EKG data.

Lebel et al. (200/0198513) shows an IMD and external device and discloses a telemetry protocol between the two devices using Cyclic Redundancy Checking (CRC). A pre-calculated CRC transmission key and CRC reception key are stored.

Cordero et al. (6,298,255) shows an external sensor that has an encryption/decryption key stored in a memory module of the sensor.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

Art Unit: 3762

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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